IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/03/2003

CORAM

THE HONOURABLE MR.JUSTICE K.P.SIVASUBRAMANIAM

WRIT PETITION No.219 of 2000

St. Paul's Seminary College Society,
rep., by its President,
Fr. Francis Nallappan,
Karayanchavadi,
Poonamallee,
Chennai-56. .. Petitioner

-Vs-

1.The Collector,
Tiruvallur District,
Tiruvallur.

2.The Special Tahsildar,
Adi Dravider Welfare,
Tiruvallur Taluk,
Tiruvallur District. .. Respondents

Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari as stated therein.

For Petitioner : Mr.G.Rajan

For Respondents-1&2 : Mrs.Raniselvam,
Govt. Advocate.

:ORDER

The petitioner prays for the issue of a Writ of Certiorari to call for the records of the first respondent relating to the Gazette Notification published in the Gazette of Tiruvallur District on 4.11.1999 vide proceedings dated 21.10.1999 and to quash the same.

2. The proceedings relate to land acquisition proposals initiated under Tamil Nadu Act 31 of 1978.

3. Having regard to the nature of disposal of the writ petition on the ground on which the petitioner is entitled to succeed, I do not propose to go into the various details of facts stated both in the affidavit and the counter affidavit.

4. The following fact is sufficient for the disposal of the writ petition.

5. The notice under Section 4 (1) of the said Act dated 13.11.1998 had been despatched only on 16.11.1998. According to the petitioner, the same was received on 23.11.1998. Even though 15 days time has been given for filing a reply, enquiry was contemplated under notice on 30.11.1998 itself.

6. According to the petitioner, by way of abundant caution, the representative of the petitioner appeared before the respondent and gave a written objection dated 30.11.1998. However, without any further enquiry, final orders have been passed by the Collector.

7. The learned counsel for the petitioner raises two objections.
1. The period of 15 days as envisaged in the Rule as well as in the notice have not been complied with, considering that the notice itself was received only on 23.11.1998 and the enquiry was contemplated on 30.11.1998.

2. There was no further enquiry by the Tahsildar or by the Collector and the Collector has passed a stereo typed order without any enquiry.

8. On the first point, I am inclined to reject the contention of the petitioner considering that on 30.11.1998 itself, objections have been filed by the petitioner in person. Therefore, the mere fact of the period being insufficient viz., less than 15 days, cannot result in quashing the notification. As no prejudice has been caused, I do not find any ground in the said point raised by the petitioner.

9. However, on the second point, the petitioner is entitled to succeed. The provisions of the Tamil Nadu Act 31 of 1978 are very drastic in nature and that is the reason why the Division Bench of this Court on an interpretation of the provisions of the Act held that the Collector passing orders acquiring the land only on the basis of the report of the Tahsildar was not proper and that the Collector should have given opportunity of hearing before passing order acquiring the land vide a judgment of this Court in Thirumathi Pushpa Bai Bainsingh vs. District Collector, Tirunelveli (1998 (I) CTC 281). There is no dispute over the fact that there was no separate enquiry by the Collector. A perusal of the order dated 17.2.1997 also shows that the order has been passed by the Collector on a printed format. No further proof is required to hold that the order is totally vitiated by nonapplication of mind.

10. In proceedings relating to Act 31 of 1978, this Court has been repeatedly pointing out that the provisions of the Act have to be strictly complied with, considering the drastic and summary nature of the provisions of the Act and if the Government wants to make use of such

provisions. It is expected of the officials to discharge their duties in a proper manner and not to reduce the requirements into empty formalities. The printed format which has been used by the Collector is very unfortunate and cannot be sustained. In spite of the High Court repeatedly pointing out that such orders cannot be passed, the same mistake is being repeated again and again. In fact, in the earlier cases, this Court had set aside the orders on the ground that they were cyclostyled. In the impugned order, it has become still worse viz., the very cyclostyled orders are now being issued in printed formats.

11. With the result, the above writ petition is allowed and impugned orders are quashed. No costs.

Index : Yes.
Internet: Yes.

Svn

To
1.The Collector,
Tiruvallur District,
Tiruvallur.

2.The Special Tahsildar,
Adi Dravider Welfare,
Tiruvallur Taluk,
Tiruvallur District.
((SCO LYRIX 6.1
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